

No. PD-1300-16

TO THE COURT OF CRIMINAL APPEALS OF TEXAS

The State of Texas,
Appellant

v.

ELVIS RAMIREZ-TAMAYO,
Appellee

MOTION TO EXTEND TIME TO FILE RESPONDENT'S BRIEF

From the Seventh Court of Appeals, No. 07-15-00419-CR, Cause No. 69,523-E from the 108th District Court of Potter County, Texas.

On November 9, 2015, Respondent argued a Motion to Suppress evidence of marijuana found in his vehicle as a result of a traffic stop. The Court denied Appellant's Motion to Suppress. Respondent on the same day entered a plea of guilty. The Court sentenced Respondent to four years in the Texas Department of Corrections, Institutional Division, with a suspended sentence.

Respondent perfected this appeal by Notice of Appeal filed November 10, 2015. On October 5, 2016, the Seventh Court Appeals ruled for respondent and remanded to the trial court for further proceedings. The State Prosecuting Attorney stepped in and filed a Petition for Discretionary Review on November 4, 2016. Respondent filed his response on November 22, 2016. This Court granted the PDR on January 25, 2017. The SPA filed its brief on February 24, 2017. Respondent requested an extension which was granted to April 11, 2017.

Over the weekend of April 8 and 9, 2017, respondent's attorney developed severe abdominal pain. That pain continued until respondent's attorney went to the emergency room early Monday April 10. Attorney was admitted to the hospital and underwent an emergency cholecystectomy. Attorney was released on Tuesday April 11, 2017, but was still in significant pain from the surgery, was under the influence of pain medication, and was restricted from driving. Respondent's attorney is a sole practitioner and does not have a partner or associate to file extension motions on his behalf. Today, respondent's attorney was able to forego his pain medication, drive to his office and complete the brief which is filed contemporaneously with this motion.

Respondent's attorney requests an extension of time to file his response brief to today's date. This is the second extension requested by appellant but is made under exigent circumstances. Appellant's attorney has contacted the State's attorney regarding this extension via email and they do not object.

ON THESE PREMISES, Appellant prays that the time for filing the brief be extended until today's date.

Respectfully submitted,

/s/ STEVEN M. DENNY

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Attorney for Respondent

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing Respondent's First Motion to Extend time to file the brief has been delivered via e-service or email to the 47th District Attorney's Office and the SPA's office on this the 17 day of April, 2017.

/s/Steven M. Denny

Steven M. Denny